

Robert G. Manson
LAW OFFICE OF ROBERT G. MANSON
398 Brigham Street
Marlborough, MA 01752
(508) 274-8360

David C. Scheffel (*to appear pro hac vice*)
Eric B. Epstein (*to appear pro hac vice*)
Dorsey & Whitney LLP
250 Park Avenue
New York, NY 10177

Attorneys for Defendant WMC Mortgage LLC

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X
STELLA M. NASCIMENTO, :
: :
Plaintiff, : :
: :
-against- : ECSV 2009-01272
: :
WMC MORTGAGE CORPORATION, WELLS FARGO :
BANK, N.A. AND PRYSMA LENDING GROUP, :
: :
Defendants. :
-----X

NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the District of Massachusetts

Pursuant to 28 U.S.C. §§ 1441 *et seq.*, Defendant WMC Mortgage, LLC,
incorrectly sued herein as WMC Mortgage Corp. (“WMC”) hereby removes the action
captioned Stella M. Nascimento v. WMC Mortgage Corporation, Wells Fargo Bank,
N.A. and Prysma Lending Group, ECSV 2009-01272, now pending in the Massachusetts
Superior Court, Essex County, to the United States District Court for the District of
Massachusetts. In so doing, WMC states the following:

1. The plaintiff Stella M. Nascimento (“Nascimento”) served this action on WMC on July 9, 2009. A copy of the Complaint in this action is attached hereto as Exhibit A.

2. In her seven-count Complaint, Nascimento asserts various statutory and common law causes of action arising out of the origination and servicing of a loan secured by a mortgage on residential property.

3. In addition to several state causes of action, Count V of the Complaint asserts a claim pursuant to 15 U.S.C. § 1692 et seq. (the “Fair Debt Collections Practices Act”).

4. Accordingly, this Court has original subject matter jurisdiction over Count V on the basis of 28 U.S.C. § 1331.

5. This Court has supplemental jurisdiction over the remaining claims asserted in the Complaint on the basis of 28 U.S.C. § 1337.

6. In addition to original jurisdiction pursuant to 28 U.S.C. § 1331, this Court also has original jurisdiction pursuant to 28 U.S.C. § 1332 as there exists diversity of citizenship and Nascimento seeks to collect over \$75,000.

7. Nascimento is alleged to be a citizen of the Commonwealth of Massachusetts. *See* Complaint ¶ 1.

8. WMC is alleged to be incorporated and to have its principal place of business in the State of California. *See* Complaint ¶ 2.

9. The Complaint does not set forth the State of incorporation or principal place of business of defendants Wells Fargo Bank, N.A. (“Wells Fargo”) or Prysma Lending Group (“Prysma”). However, neither Wells Fargo nor Prysma is a citizen of

Massachusetts. Wells Fargo is a national banking association with its main office, as designated in its Articles of Association, located in the State of South Dakota, and Wells Fargo therefore is a citizen of the State of South Dakota. *See Wells Fargo Bank, N.A. v. WMC e-Pin, LLC*, No. 08-5472 (JNE/FLN), 2008 WL 5429134 (D.Minn. Dec. 29, 2008). Prysma is incorporated in the State of Connecticut, and its principal place of business is located at 10 Precision Road, Danbury, CT 06810.

10. Although the Complaint does not specify the amount of monetary damages sought, the Complaint requests relief in the form of, among other things, “monetary damages and losses sustained by” Plaintiff, treble damages with respect thereto, and punitive damages. Furthermore, Plaintiff has represented to the Massachusetts Superior Court in this action that “[t]here is a substantial likelihood that the Plaintiff will recover Judgment against the Defendants in excess of \$325,000.00 . . .” *See Plaintiff’s Motion for Issuance of Preliminary Injunctions against the Defendants from Further Encumbering, Alienating or Conveying the Subject Property and to Refrain from Contacting Plaintiff Directly*, dated July 8, 2009, ¶ 15 (copy attached as Exhibit B). Thus, as the Plaintiff has acknowledged, the Complaint seeks to collect in excess of \$75,000.

11. Pursuant to 28 U.S.C. § 1446, WMC’s notice of removal is timely as it is filed within thirty (30) days of receipt of the complaint.

12. Wells Fargo and Prysma have consented to removal of the Complaint.

13. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal is being filed with the Massachusetts Superior Court.

14. Pursuant to Local Rule 81.1, WMC will file certified or attested to copies of all papers that have been filed in Superior Court.

15. WMC removes this action, and Wells Fargo and Prysma consent to such removal, without waiver of or prejudice to any defenses that may be asserted in this action.

WHEREFORE, WMC requests that the above action now pending against it in the Commonwealth of Massachusetts Superior Court, Essex County be removed therefrom to this Court.

Dated: Marlborough, Massachusetts
August 7, 2009

LAW OFFICE OF ROBERT G. MANSON

By: /s/ Robert G. Manson
Robert G. Manson
398 Brigham Street
Marlborough, MA 01752
(508) 274-8360

-and-

DORSEY & WHITNEY LLP
David C. Scheffel (*to appear pro hac vice*)
Eric B. Epstein (*to appear pro hac vice*)
Dorsey & Whitney LLP
250 Park Avenue
New York, NY 10177
(212) 415-9200

Attorneys for WMC Mortgage, LLC

Assented To:

Defendant Prysma Lending Group
By its attorney,

/s/ James Brownstein
Kantrovitz & Brownstein, P.C.
1 Bradley Road, Suite 305
New Haven, CT 06525
(203) 389-0070
jsb@kblawyer.com

Defendant Wells Fargo Bank, N.A.
By its attorney,

/s/ James J. Nicklaus
Paul Michienzie, BBO# 548701
James J. Nicklaus, BBO #564806
Michienzie & Sawin LLC
745 Boylston Street
Boston, MA 02116
(617) 227-5660
pm@masatlaw.com
jnicklaus@masatlaw.com

TO: Riccardo L. Rullo
Law Offices of Frank N. Dardeno, LLP
424 Broadway, Somerville, MA 02145
rullo@dardeno.com
(617) 666-2600

CERTIFICATE OF SERVICE

I, Robert G. Manson, certify that a true and accurate copy of the foregoing document was filed through the Court's ECF system this 7th day of August, 2009. I further certify that a true and accurate copy of the foregoing document was sent on August 7, 2009 by electronic mail and first class postage to:

Paul Michienzie, Esq.
James J. Nicklaus, Esq.
Michienzie & Sawin LLC
745 Boylston Street
Boston, MA 02116
(617) 227-5660
pm@masatlaw.com
jnicklaus@masatlaw.com
Attorney for Defendant Wells Fargo Bank, N.A.

Riccardo L. Rullo, Esq.
Law Offices of Frank N. Dardeno, LLP
424 Broadway
Somerville, MA 02145
(617) 666-2600
rullo@dardeno.com
Attorney for Plaintiff

James Brownstein, Esq.
Kantrovitz & Brownstein, P.C.
1 Bradley Road, Suite 305
New Haven, CT 06525
(203) 389-0070
jsb@kblawyer.com
Attorney for Defendant Prysma